

also believes that contract-based tariffs involving competitive procurements should be permitted for services under baseline regulation. GTE suggests that LEC contract-based tariffs should be permitted providing certain conditions are met: First, the customer must have issued a Request For Proposal ("RFP"); and, Second, at least one provider other than the LEC must have responded to the RFP.

While the services in question are still under baseline regulation, the LEC will not yet have demonstrated that competitive alternatives exist in the relevant access market. However, the fact that other carriers have responded to the RFP demonstrates that competitive alternatives are available to the particular customer that has issued the RFP, and for the specific package of services requested in the RFP.²⁶ The proposed contract should be filed as a tariff on 21 days' notice, with a showing that the proposed rates cover their direct costs. The services provided under contract should be excluded from price caps. The LEC would of course be required to provide comparable terms to any similarly situated customer in that market.

These contract-based tariffs would allow LECs to meet the needs of their customers for individually tailored packages of services. Unlike Individual Case Basis ("ICB") tariffs, these contracts could include services already generally

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The Commission may wish to restrict the use of contracts for access services originating or terminating at an end user location to the large customer segment. GTE will discuss *infra* the use of customer characteristics to define a relevant market.

available under tariff. As GTE will explain *infra* in the context of streamlined regulation, the Commission has recognized that the customer-specific tailoring of services can provide benefits for customers. Further, contract-based pricing is needed to establish efficient entry signals and to prevent the rates in LECs' generally available tariffs from providing price umbrellas for entrants.

2. The Commission should not unreasonably restrict the use of individual case basis contracts.

A specific type of contract-based tariff is the ICB, which is used to provide services that are not otherwise generally available from the LEC. The *SFNPRM* proposes (at ¶65) to continue the current practice by further limiting the use of ICBs by requiring LECs to demonstrate that a proposed ICB is so unlike any existing service that the LEC would have no reasonable basis on which to develop generally available rates. The *SFNPRM* also proposes not allowing ICBs to be used for more than two customers, or longer than six months.

To encourage new service offerings, the current ICB practice must be revised. ICBs are a valid and useful tool for responding to specific customer requests in cases where the service does not justify a general offering. The Commission does not generally require carriers to offer new services, except in specific cases when there is a public policy reason for doing so. Instead, the Commission reviews proposals for services the carriers decide to offer. The Commission should not continue to sustain a mechanism which creates an obligation for the LEC to make a service generally available if it responds to a specific customer request. There is nothing inherent in offering a service to more

than two customers or for a period of more than six months which justifies requiring the filing of a generic rate for a service.

The effect of the proposal in the *Second Notice* would be to deter LECs from meeting legitimate customer needs, and to create a protected market segment for other carriers that are not burdened with the same requirement. Any mandate to provide a new LEC service should be based on a clear finding, in a rulemaking, that there is a public policy interest that justifies such a requirement; it should not be triggered by arbitrary guidelines for ICB tariffs.

Further, nothing in the Act would prohibit a LEC from offering service at an ICB rate. A customer-specific rate is not in itself unreasonably discriminatory, so long as any differences in rates are reasonable and the same ICB terms are available to any similarly situated customer. The same nondiscrimination requirements in the Act apply to nondominant common carriers, many of whom make extensive use of contracts today. The difference, under baseline regulation, is the need to control market power in markets where effective competition has not yet been demonstrated. This the Commission can accomplish, first, by requiring LECs to file the terms of each contract as a tariff, and, second, by requiring cost support for the proposed rates.

F. The Commission should eliminate the Part 69 waiver process for new services.

The *Second Notice* (at ¶¶66-74) proposes to eliminate the need for LECs to seek a waiver of Part 69 of the Commission's Rules in order to offer a new switched access service. GTE supports this objective and suggests a procedure

that is simpler, and more consistent with the provisions of the Act, than the one set forth in the *Second Notice*.

1. The need to seek waiver of the Commission's rules is a barrier to the introduction of new services.

As discussed *supra*, the Act establishes a presumption in favor of new services, and places the burden of proof on any party that seeks to show that the new service is not in the public interest. However, the current Part 69 rules reverse this presumption and require a LEC seeking to offer a new access service to file a petition either to waive or to change the rules.²⁷

Under the current practice, a LEC proposing a new switched access service bears a heavy burden to demonstrate that "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."²⁸ Not only does this place the burden of proof on the LEC, but it establishes a criterion – the need to demonstrate special circumstances – which is unrelated to the merits of the proposed service. Further, because there is no specific time within which the Commission must respond to a waiver petition, the process is necessarily slow and unreliable. Waivers are designed to deal with exceptions to a valid rule and should not be used to create or change policy.

²⁷ As the *SFNPRM* (at ¶67) notes the rules have never required a waiver to introduce new special access elements. This approach has worked well, and no harm has resulted from the lack of a waiver process for special access.

²⁸ *SFNPRM* at ¶68 and n.109.

The effect of the current waiver process has been to turn the Act's presumption in favor of new services on its head.²⁹

Further, as the *Second Notice* notes (at ¶69), new services may not fit readily into the current structure, and modification of the waiver process will not address this concern.³⁰ GTE agrees with the *Second Notice* (at ¶69) that "a comprehensive review of our Part 69 rules should appropriately be pursued in a separate proceeding." GTE urges the Commission to begin such a proceeding as soon as possible. In the meantime, however, interim relief of this inflexible and burdensome wavier process is imperative.

2. The Commission should adopt a simplified procedure which would replace the current waiver process.

The *SFNPRM* proposes (at ¶70) to modify Part 69 so that LECs would not be required to seek a waiver in order to introduce a new switched access rate element. Instead, the LEC would file a petition proposing to establish the new rate element or elements. Once the new service is approved for one LEC, other

²⁹ GTE currently has pending before the Commission several Part 69 waiver petitions, one of which was filed in August 1993. *See, e.g., Petition for Waiver of the GTE Telephone Operating Companies to Offer Switched Access Discount Plan*, filed August 3, 1993. *See also, Petition for Waiver of the GTE Telephone Companies, Expanded Interconnection with Local Telephone Company Facilities, Waiver of Threshold Requirement*, filed January 6, 1995.

³⁰ The root of this problem may lie, not in the waiver process, but in the Part 69 rules. Without a rigid set of prescribed Part 69 elements, there would be no need to waive or change these rules in order to introduce a new service. Accordingly, GTE supports broader access charge reform.

LECs proposing similar services would only submit a certification and would be afforded expedited treatment.

This procedure offers a clear advantage over the current waiver process and clearly moves the Commission in the right direction. It would allow the Commission to establish criteria that are different from those pertaining to the waiver process and LECs would no longer have to demonstrate special circumstances to introduce a new service.³¹ Further, the *SFNPRM* proposes (at ¶72) to require the petition to sufficiently describe the service to be offered and to propose alternative rate elements in more general terms than is currently required. However, the Commission's proposed process would require that the Bureau ultimately approve or specify the types of rate elements to be filed.

GTE agrees that an alternative to the waiver process is essential. New services should be allowed to proceed to the tariff review process as quickly as possible, with a minimum of delay and uncertainty. While the approach in the *Second Notice* is promising, it has two significant deficiencies, which could be addressed by adopting the modified proposal GTE suggests *infra*. First, the Commission's proposal would still place the burden on the LEC to show that the new service is in the public interest. This contrasts sharply with the presumption in favor of new services established in Section 7 of the Act. Second, the proposal does not establish a specific time frame within which a petition must be

³¹ In fact, the proposal to allow subsequent filings by other LECs on a more streamlined basis (*SFNPRM* at ¶71) relies on the assumption that the circumstances pertaining to the first LEC's petition were not unique.

acted upon. The lack of a time frame in the current process introduces not only delay, but considerable uncertainty, into the new service process and must not be carried over into any new process.

To correct these shortcomings, GTE proposes that a LEC would instead file a Notice of Intent to file which would describe the proposed service, rate structure and rate applications. The new service would be presumed to be in the public interest unless a contrary interim finding is made within a short specified time such as ten days. If the Commission does not act to the contrary, the LEC would be able to submit a tariff for the new service, subject to the appropriate notice interval.

This approach would shift the burden of the public interest showing to any party opposing the service, consistent with Section 7 of the Act. Parties could submit such a showing to the Commission during the notice period. If the Notice of Intent is opposed, the Commission, based on a determination that more information is required from the LEC, would advise the filing LEC and could extend the time to consider the matter. Within 30 days from the date of the original Notice of Intent filing, the Commission would determine whether the opposition to the service have successfully rebutted the presumption. If the Commission finds that the public interest presumption has been rebutted, the filing LEC could withdraw the proposal, revise the proposed service to address the Commission's concerns and resubmit the Notice of Intent or file a petition as

proposed in the *Second Notice*, with the burden of showing that the service is, in fact, in the public interest.³²

The *Second Notice* also proposes (at ¶71) that, once a new service has been approved for one LEC, other LECs proposing similar services only need to submit a certification in order to receive expedited treatment. GTE agrees that a simplified and expedited procedure for subsequent carriers seeking to provide the same new service is appropriate. GTE suggests, however, that minor variations to a service also should be permitted under simplified and expedited procedures, as long as the difference is not so great as to raise new policy concerns. For example, another LEC may propose to establish the same basic rate element structure, but modify the manner in which the rate is applied. Any LEC would be able to file such a certification once another LEC has completed the Notice process outlined *supra*.

The *Second Notice* also proposes (at ¶73) that the determination of Track 1 or Track 2 status should be consolidated with the review of the petition considering the new service. GTE has suggested treatment for determining Tracks 1 and 2 services *supra* which, if adopted, would obviate the need to determine which track the service is on as part of the new service filing process. However, if the Commission decides to maintain the need to determine that the new service is a Track 2 service, GTE agrees that this determination should be

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There should be a specific time period (say 45 days) within which the Commission should be required to act on any such petition.

made at the same time the Commission considers the petition, or the Notice of Intent suggested by GTE, on an expedited basis.

The *Second Notice* (at ¶70) also proposes that an APP which establishes a new rate elements for an existing service would need a public interest finding, just as is being proposed for new services. GTE believes that neither the waiver process, nor the Notice of Intent procedure suggested here, should apply to APPs. As explained *supra*, APPs will increase the range of service options available to customers. By definition, an APP is merely additional pricing options for a service that already exists.³³ The continued availability of the existing service acts as a check on the LEC's pricing of APPs so that prior review, as contemplated by the *Second Notice*, is unnecessary. LECs will want to introduce APPs that they believe customers will purchase. However, customers that determine that existing service arrangements will continue to meet their needs will retain the existing arrangement. Advance Commission approval is not necessary.

The process GTE proposes here would address the concern stated in the *Second Notice* that the Commission should "not retain any undue restrictions which might hinder LECs' ability to respond to the marketplace or to introduce new services."³⁴ It would provide the Commission, as an interim tool, with a procedure that would allow it to examine any new service filing, with input from

³³ See *SFNPRM* at ¶59.

³⁴ *SFNPRM* at ¶69.

interested parties, to determine if the proposed service raises policy concerns which should be addressed in a rulemaking. Absent such concerns, new services should be allowed to proceed to the tariff review process as quickly as possible, with a minimum of delay and uncertainty. Finally, GTE's proposal would make the Commission's new service procedure consistent with the current provisions of the Act. In the longer term, after the Commission has adopted a comprehensive reform of Part 69, the current prescribed rate structure should no longer be in place and it would no longer be necessary for the Commission to have any "gating" mechanism such as the Notice process.

G. Lower Service Band Index limits should be eliminated.

GTE supports the Commission's proposal (at ¶75) to eliminate "the lower service band limits in the price cap plan." The Commission correctly concludes that the elimination of the lower service band limits "will result in more efficient pricing, enhance competition, and will not adversely affect ratepayers." The price cap plan clearly should not diminish the "substantial benefits that consumers would realize from lower prices."³⁵ Price reductions produce immediate, first-order benefits for access customers. As the *SFNPRM* notes (at ¶83), any factor that discourages a LEC from reducing prices may encourage inefficient entry and provide a pricing umbrella which would, in turn, discourage competitors from pricing at cost. In addition, if the Commission's goal is to

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SFNPRM at ¶81.

encourage LECs to price closer to cost,³⁶ then it is necessary to remove any artificial barriers that prevent this from occurring.

GTE, perhaps more than any other price cap LEC, has reduced access rates under the price cap plan, including below-band filings for both switched and special access rates. While none of these filings has ultimately been rejected,³⁷ GTE has expended considerable time and effort in justifying below-band filings, and has had such reductions suspended for a period of time.³⁸ The lower banding constraints create a distinct disincentive for LECs to propose rate reductions.

The Commissions conclusion in the *First Report and Order* (at ¶11) that competition in the industry greatly reduces any risk of predatory pricing is accurate. The potential harm from rates that are too low is a second-order effect which could only affect consumers if the LEC were able to carry out a strategy of predation successfully. The chances for such a strategy to succeed in interstate access markets are slim, given the difficulty of recoupment, the rapid growth of entry in these markets, the existence of significant sunk investments in competitors' networks, and the LECs' inability to prevent reentry.

In any event, as the *SFNPRM* points out (at ¶83), price caps themselves discourage predation by further limiting the LECs' opportunity to recoup. In

³⁶ See *SFNPRM* at ¶83.

³⁷ See, e.g., GTE Telephone Operating Companies, 10 FCC Rcd 1573 (1994).

³⁸ *SFNPRM* at n.124.

addition, remedies currently exist for parties that claim predation: petitions against tariff filings; the formal complaint process; and, ultimately, antitrust laws. It is highly unlikely, if not impossible, that the LECs could successfully price low enough, and sustain these prices for the period of time that it would take to drive their competitors from the market, especially considering the number and size of their competitors.³⁹

H. Zone pricing should be applied to additional access elements under baseline regulation.

The *SFNPRM* seeks comment (at ¶84) on additional modifications to baseline regulation that would increase pricing flexibility in such a way as to promote the movement of prices toward cost. Density zones are cited as an example of such flexibility. GTE strongly urges the Commission to permit LECs to extend zone pricing beyond the transport elements currently permitted.

Since the establishment of access charges, the Commission's rules have required most access rate elements to be averaged at the study area level. The Commission adopted zone pricing for transport services as a means for allowing rates to better reflect variations in underlying cost among geographic markets within each study area. LEC wire center traffic density was used as a proxy for differences in cost.

³⁹ "AT&T Corp., girding for its push into local telephone services, has created a division of five regional entities to attack the Baby Bells in their home markets." See *The Wall Street Journal*, December 5, 1995 at A3.

GTE submits that the cost of many interstate access services also are related to traffic density, and that the transport zone pricing framework should be applied to these elements as well. As described *supra*, GTE recently filed a petition for waiver to permit its proposed ZonePlus service to be offered. ZonePlus would establish zone pricing for the end office switching element, the originating and terminating CCL charges, the RIC, and the information surcharge. In its ZonePlus Petition, GTE provides evidence that its common line and switching costs do vary significantly by zone.⁴⁰ GTE proposes to use its existing zone plan for all of these elements in the ZonePlus Plan.

GTE proposes that the rules for baseline regulation should permit LECs generally to establish rates on a zone basis for the elements listed *supra*, as well as for those special access transport services to which zones do not currently apply.⁴¹ These could be based upon the LEC's existing zones, and would have

⁴⁰ See *ZonePlus Petition* at 25-28. Further evidence on this point has recently been submitted by several parties in the Commission's proceeding on the Universal Service Fund. These data make it clear that both switching and loop costs are higher in low density areas. See Reply Comments of National Rural Telecom Association, filed Nov. 9, 1995, at 8-10, Reply Comments of TDS Telecommunications Corporation, filed Nov. 9, 1995 at 8-10, Reply Comments of National Telephone Cooperative Association, filed Nov. 9, 1995 at 19-21 in *Amendment of Part 36 and Establishment of a Joint Board*, CC Docket No. 80-286 ("D.80-286 USF NPRM").

⁴¹ GTE believes that it also would be useful to apply the zone pricing framework to the EUCL charge and anticipates that this issue will be addressed in the context of the forthcoming access reform proceeding.

the same five percent upper band limit for each zone.⁴² This proposal is incorporated within the revised basket structure proposed *infra*.

I. Rate reductions should not trigger additional constraints on subsequent rate increases.

The *SFNPRM* proposes (at ¶48) to apply an additional upper banding limit – of one percent – to service categories in which a LEC "makes price reductions pursuant to the pricing flexibilities in this Second Further Notice." GTE urges the Commission not to adopt this proposal, for the following reasons.

First, and most importantly, the price cap plan should not penalize LECs for reducing rates. To do so would create a disincentive for LECs to behave in ways which benefit consumers. A price cap LEC considering a voluntary price reduction should, like any other firm, consider the tradeoff between demand stimulation and revenue reduction. The price cap plan itself should, so far as is possible, be neutral with respect to the LEC's decision. But, under the *Second Notice* proposal, a LEC that voluntarily reduces rates will face a lower effective price cap constraint in the next period than a LEC that chooses to keep rates as

⁴² For the CCL elements, GTE will propose *infra* a capping mechanism that would take the place of an upper band limit on CCL zone rates. The existing zones were based on the volume of transport traffic at each wire center. Other measures of density may capture cost differences more precisely for different services; however, GTE does not believe that this would justify the complexity of maintaining different zone definitions for different services. GTE recommends that LECs should have the opportunity to revise their zone plans, perhaps to include more than three zones, to reflect the characteristics of the services.

high as possible.⁴³ This is not the kind of incentive structure the Commission should build into its price cap plan.

Second, the Commission should consider that relative rate adjustments are necessary over time to establish efficient rate relationships. The price cap plan was intended to allow such adjustments to occur. A one percent upper band limit does not allow sufficient scope for relative rate adjustments.

Third, the objective of the price cap plan is to mimic the effects of competition. While a competitive market generates information efficiently, it does so by trial and error, and each firm faces considerable uncertainty concerning the effects of its own actions. Competitive firms must be free to experiment with rate changes, new service offerings and promotions. The firm will find that some of these changes are useful, and others are not. Any regulation that "locks in" rate changes forever will inhibit this useful activity, and prevent the market from generating useful information about prices.⁴⁴

⁴³ Even if the LEC does not, as the *SFNPRM* fears, intend to raise rates which it has previously reduced, the additional constraint of a one percent upper band will become binding. This adverse effect occurs since the productivity offset drives the PCI down over time. For example, LEC A voluntarily reduces its rates in year 1 to bring them to a level it believes the market requires. LEC B, however, starting at the same point, keeps its rates at the cap. Although LEC A may have no intention of increasing its rates above the level set in year 1, the downward movement of the PCI will carry the SBI limits along with it. At some point, perhaps in year 3, LEC A may be forced to make an *additional* reduction in order to stay within the upper band. This could occur even if LEC A were still pricing below the basket cap. LEC B, meanwhile, would be able to maintain higher rates in year 3 than LEC A, by virtue of having held rates higher in year 1.

⁴⁴ "In contract bridge, a peek is worth a thousand finesses, and in marketing, observing the response of actual customers to a variety of actual products

Finally, it is not clear how the proposal in the would be administered. The Commission would have to distinguish rate reductions which are made pursuant to the pricing flexibilities in the *Second Notice*. This determination would then have to trigger different calculations of the Service Band Index ("SBI") for different service categories in future periods. Even if this could be done, it would present a significant administrative burden for both the Commission staff and the price cap LECs. Further, a service category may contain several rates. It is not clear from the *SFNPRM* whether a reduction in any one of these rates could trigger a one percent upper band, which would have to apply to all of the services in the category. If this were the case, the disincentive to reduce a rate with relatively small revenue weight would be especially severe.

The pricing flexibilities considered in the *SFNPRM* should be adopted (with the modifications proposed by GTE) because they will make consumers better off. As the Commission observes (at ¶81), there are other mechanisms in place which ensure against the possibility of predation. Further, as GTE has explained, this possibility would be extremely small in any event, given the characteristics of the market. If the Commission has concerns about predation, they would best be addressed by establishing an appropriate basket structure. More importantly, the Commission should adopt a simple and workable plan for moving the most competitive access markets out of price caps, and into streamlined regulation.

and prices is essential if the firm is to serve its customers." GTE's Comments, CC Docket No. 94-1, filed May 9, 1994, Attachment F,

This is the most effective way for the Commission to ensure that LEC actions in more competitive markets will not affect consumers in less competitive markets.

J. Improvements to baseline regulation should not be conditioned on any competitive criteria.

The Commission should not require any competitive showing in order to implement the changes proposed for baseline price cap regulation: revisions to baskets; reduced barriers to the introduction of new services; zone pricing; and provision for APPs incorporating volume and term discounts. These changes will improve the efficiency of baseline regulation, regardless of presence or extent of competition. Price caps are intended to replicate the outcome of a competitive market, even where the market is not yet competitive. The proposed changes would allow baseline regulation to better achieve this goal.

For example, zone pricing would allow prices to be aligned more closely with geographic differences in cost associated with density. Reduced barriers to new services would allow all customers to benefit from new and innovative services. Volume discounts would improve pricing efficiency by allowing the incremental price a customer faces to be closer to incremental cost. These are benefits that can, and should, be realized in markets where competition has not yet been demonstrated. A correctly structured price cap plan will protect customers in these markets from any possible anticompetitive behavior by LECs.

As noted *supra*, the Commission adopted analogous reforms for AT&T, even before adopting a price cap plan for AT&T. The Commission did this in markets where it assumed that AT&T still retained market power; and before any AT&T market had been found competitive through the application of criteria like those proposed in this *Second Notice*. The Commission took these steps because optional calling plans and customer-specific tariffs benefit interexchange customers.

It is important to set rules that encourage efficient prices, even in those areas where competition cannot be demonstrated, so that correct price signals will be sent to customers and to potential entrants. This will produce immediate benefits for consumers. Further, by promoting efficient entry, it will ensure that effective competition develops in these markets. Finally, accurate price signals are required if the market is to guide efficient investment in the infrastructure by incumbents and entrants.

Because GTE does not believe that any specific criteria should be applied in connection with baseline regulation, GTE will not comment on the specific criteria mentioned in the *SFNPRM*. However, GTE will offer two observations. First, the *SFNPRM* (at ¶108) does not establish any connection between the "checklist" issues and LEC market power in the provision of interstate access services. GTE does not believe that such a connection exists, especially with respect to the large customer segment. Large customers are able to select access arrangements from numerous service providers regardless of the status of local competition.

Second, the *SFNPRM* seeks comment (at ¶110) on the value of structural separation, *e.g.*, the Rochester model, as a threshold requirement for changes in price cap treatment afforded a LEC. While structural separation could be useful in cases where a "bright line" could be drawn between the competitiveness of specific markets, here no such "bright line" line exists and structural separation loses its usefulness. The LECs are facing facilities-based and reseller competition for interstate access services in most markets, and this competition is increasing. If distinctions are to be made regarding LEC markets, the valid ones would consider geographic markets and customer segments — not loops and switching. No sooner would a plan for structural separation be implemented, than the Commission would be faced with the need to implement an adaptive scheme of regulation for the newly created "monopoly" subsidiary.⁴⁵ Moreover, the costs associated with structural separation are tremendous and would unnecessarily burden the competitive services that the Commission is trying to encourage.

II. THE COMMISSION SHOULD SIMPLIFY THE PRICE CAP BASKET STRUCTURE.

The original price cap basket structure was based on the Part 69 rate structure, rather than on a detailed consideration of the relative cross-elasticities

⁴⁵ As the *Second Notice* notes (at ¶109), regulatory policy with respect to local competition is under the control of state authorities. The Commission should not condition its access policy on the regulatory approach selected by individual states.

of the access services. The Commission has since grouped switched transport services with special access in the trunking basket, to reflect both the functional similarities of these services and the Commission's judgment that switched transport services were subject to a greater degree of competition than the other elements in the traffic-sensitive basket.⁴⁶ However, since the price cap plan was first adopted, the Commission also has taken a series of actions that have greatly complicated the price cap structure.⁴⁷

Specifically, the Commission has created a significant number of new subcategories, each with its own individual pricing constraints, which has severely limited the LECs' ability to respond to competitive alternatives to those services that face the most competition (*i.e.*, high capacity DS-1 and DS-3 services). Similarly, the practice of placing rate elements for individual services, or a relatively small set of services, within their own subcategory has forced LECs to make rate changes for certain elements for which there are no rational market-based reasons to do so. GTE encourages the Commission to simplify the price cap structure in this proceeding.

A. The existing price cap plan should be simplified by reducing the number of service categories and subindices.

⁴⁶ See *SFNPRM* at ¶87.

⁴⁷ During this same period, in contrast, the Commission gradually simplified the basket structure for AT&T's price cap plan. See GTE's Comments, CC Docket No. 94-1, filed May 9, 1994, Attachment E.

Access elements should be governed by a price cap mechanism that minimizes rate caps for specific elements and subcategory banding constraints, except for zone density pricing elements. To this end, GTE recommends a simplified price cap basket structure with two important improvements. First, GTE's proposed structure would simplify the existing plan by reducing the number of service categories and subindices. GTE believes that its proposed changes will simplify the price cap plan, and permit LECs to adjust relative rates over time without resulting in competitive harm. Second, as discussed *supra*, GTE's proposed structure would accommodate zone pricing for most of the major access rate elements.

GTE's proposed price cap basket structure is as follows.⁴⁸ There would be five baskets: Switching; Transport; Common Line; Interexchange; and Video Dialtone.

- SWITCHING

The Switching basket would contain three service categories: Local Switching; Information; and Data Base. The Local Switching category would include the end office switching elements. LECs would be permitted to establish zones for local switching; each zone would have a plus five percent banding constraint, and no lower banding limit. Since the five percent bands would exist

⁴⁸ A chart that illustrates the proposed structure is shown in Attachment 1.

at the zone level, there would be no need for a banding constraint at the service category level.⁴⁹

The Information category would include: Information Surcharge; Directory Assistance; Operator Transfer; Busy Line Verification; Inward Operator Services; Billing Name and Address ("BNA"); and related Call Completion services. The Data Base category would include the following elements: 800 Basic and Vertical Services; and Line Identification Data Base ("LIDB"). For a number of these functions, the facilities used to provide these services need not be located where the calls themselves originate or terminate. Therefore, a geographic zone structure is not necessary for all of these elements, although LECs should be given the option to establish zone pricing for these categories if market conditions warrant.

The proposed Information and Data Base categories would consolidate a number of existing service categories into two, greatly reducing the complexity inherent in the existing Traffic Sensitive basket structure. This structure also aligns services that have similar network functions and customer utilities. GTE urges the Commission not to further subdivide the Traffic Sensitive price cap baskets, but instead to move toward a more optimal basket structure that relies on the PCI index itself to constrain price increases, rather than individual service category indices.

⁴⁹ If a LEC chose to raise rates in all three zones by five percent, it would still satisfy a five percent limit at the category level. The category limit would therefore be redundant.

- **TRANSPORT**

GTE proposes that the Transport basket include four service categories: Digital; Analog; Tandem-Switched; and Interconnection. The Digital category would include digital special access transport and channel terminations, including DDS, DS-1, and DS-3, dedicated switched transport, and related services, such as multiplexing. This arrangement would consolidate the current High Capacity subindices for DS-1 and DS-3 with DDS, which is not included today. This structure recognizes that transport services at digital bit rates are close substitutes for one another, and that where alternative supply exists (as it does in many markets), all of these speeds are available. This structure also would readily accommodate the introduction of new digital speeds or formats.

The Analog category would include voice grade special access, wideband, and analog audio and video services. This arrangement consolidates the existing category for audio and video with that for wideband. These services are based on older technology, and are being replaced over time by newer digital services. Customers for these services have the option of digital special access, as well as new switched digital services such as Integrated Services Digital Network ("ISDN"). As the cost of new digital services declines, and as the equipment used to provide analog services becomes obsolete, the price cap structure should allow the relative prices of these services to change accordingly.

The Tandem category would include tandem switching and tandem switched transport and the Interconnection category would include the switched

transport interconnection charge. LECs would be allowed to establish zones for the Interconnection category.

- COMMON LINE

The Common Line basket would include the End User Common Line ("EUCL") charges and the originating and terminating Carrier Common Line ("CCL") charges. The Common Line basket includes these elements today; however, rates within the basket are determined by a combination of revenue requirement calculations, specific rate limits, and the overall basket cap. Further, under the current structure, LECs are prevented from implementing zone pricing for CCL rate elements.

Nowhere is the need for access charge structure reform more crucial than in the current Part 69 rules which dictate the calculation and application of common line elements, a fact recently acknowledged by Chairman Hundt.⁵⁰ In recent years, it has become increasingly difficult to implement the pro-competitive policies of both state and federal regulators simply because of the antiquated nature of the Commission's Part 69 rules.⁵¹ The need to transition

⁵⁰ See Speech by Chairman Hundt, National Consumers Week Symposium, October 26, 1995.

⁵¹ For example, many states have mandated that LECs offer their local exchange services for resale and unbundle different components of the local loop to competition, a move strongly supported by the Commission itself. However, because of the rigid structure of the existing common line rules, LECs are forced to first seek waivers of the EUCL and CCL rate application rules before they can fully implement fair and balanced local competition. See, e.g. *Expedited Petition for Waiver of the GTE Telephone Operating Companies*, filed Oct. 31, 1995. Rapid development of the

common line cost recovery to reflect more economically rational pricing is readily apparent in the increasingly competitive access service markets. The Commission should address common line recovery issues in a comprehensive review of the access charge structure.⁵² As part of this reform effort, the common line recovery should be controlled by a standard API/PCI mechanism.

However, in the interim, the Commission should allow LECs to respond to existing access service competition by permitting LECs to establish zone pricing for CCL elements. Until the Commission completes its expected access charge reform proceeding, zone pricing could be accommodated without substantially modifying existing common line pricing rules. LECs can simply establish three separate zones for CCL rate elements with rate increases in each zone limited to the existing cap on the originating CCL rate (*i.e.*, \$0.01) and the maximum terminating CCL rate computed in accordance with existing rules. This approach would allow LECs to focus CCL rate reductions in higher density markets where

nation's telecommunications infrastructure and access to the Internet by the American public could potentially be hampered by the Part 69 rules governing the application of EUCL charges to ISDN. *See End User Common Line Charges*, Notice of Proposed Rulemaking, CC Docket 95-72, DA 95-2089, released May 30, 1995.

⁵² In the *Fourth Further Notice*, the Commission is considering the establishment of a LEC productivity factor based on Total Factor Productivity ("TFP"). Because the Balanced 50-50 formula was originally adopted to reflect the difference between growth in lines and minutes in the common line formula, it no longer has any validity under a price cap plan that incorporates measures of TFP. Therefore, the common line PCI formula should be revised to remove any adjustment that specifically reflects either per line or minute-of-use growth.